



PATENT
ATTORNEY DOCKET NO. RM 0001P

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Enrique Saldivar Art Unit:
Serial No.: 10/632,532 Examiner:
Filed: 8/01/2003
Title: Apparatus and Method to Measure Platelet Contractility

San Diego, California
March 1, 2004

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is/are the following document(s) related to the above-identified patent application:

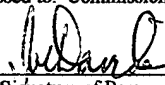
Petition to override Notice of Incomplete Nonprovisional Application filed under 37 CFR 1.53(b) provided by Initial Patent Examination Division communication mailed December 29, 2003. Also requested is establishment of the appropriate filing date of 08/01/2003, and refund of the \$130.00 petition fee.

Papers submitted herein:

- (X) Transmittal form
- (X) Acknowledgement of Receipt Card
- (X) Fee Transmittal
- (X) Fee Check \$ 130.00
- (X) Response
- (X) New copies of Drawings (17 pages)
- (X) Evidentiary Documents

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as EXPRESS MAIL in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on the date written below.

Joseph A. Davidenas  Date: March 1, 2004
Typed Name of Person Signature of Person
Mailing Correspondence Mailing Correspondence

03/05/2004 DTESSEM1 00000004 10632532

01 FC:1460

130.00 0P



PETITION TO ASSIGN FILING DATE

This is a Petition to rescind the Notice of Incomplete Nonprovisional Application provided by Initial Patent Examination Division communication mailed December 29, 2003 and to assign the appropriate filing date of 08/01/2003, and refund the \$130.00 petition fee submitted herewith.

1. Applicant submits that 17 pages of drawings, including Figures 1 to 18, were properly included in the application referred to hereinabove, filed on 8/01/2003. By doing so, Applicant does not accept the charge that no drawings were provided, but submits said pages merely so that prosecution of the invention may proceed.
2. Receipt of said drawings by the PTO is indicated by the attached copy of the executed Acknowledgement of Receipt card, received in this office shortly after filing by Express Mail.
3. The Notice of Incomplete Nonprovisional Application was mailed on 12/29/03, nearly 5 months after receipt of the application by the PTO. Applicant respectfully submits that the drawings were somehow inadvertently misplaced in the PTO during this interval. Extensive searches in this office failed to provide a spare set of drawings.
4. It is evident from the filed specification by specific referrals that drawings were prepared; therefore, no new matter is being introduced by these replacement drawings.
5. Also presented as evidence is the acknowledgement card for the simultaneous PCT filing of this application. It is clear that drawings existed at the time to support the application.
6. The attached sheet contains a declaration by three separate persons attending to filing the application.

With the submission of the above evidence, Applicant respectfully requests this petition to be granted, and the original filing date to be assigned. The consequences of assigning a new date could be devastating to the Applicant.

Respectfully submitted,

William C. Fuess, #30,054